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By ECF

September 2, 2022

Honorable Coleen McMahon
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Sierra, et al. v. City of New York, et al.*, 20-cv-10291 (CM)(GWG)
Wood v. City of New York, et al., 20-cv-10541 (CM)(GWG)

Your Honor:

I am a Senior Counsel in the office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and one of the attorneys assigned to represent Defendants in the above referenced matter. On July 22, 2022 (Dkts. 686, 687, 688, 689, 690, and 692), the plaintiffs in *Sierra* and *Wood* filed a motion for leave to file an Amended and Consolidated Complaint. Defendants write herein to advise the Court that, upon consideration of plaintiffs' motion, defendants consent to most of what plaintiffs request, and take no position on the remainder.

It is rather unfortunate that plaintiffs declined to meet and confer regarding their instant Proposed Consolidated and Amended Class Action Complaint¹, for if they had done so, then it may well have become clear that, apart from plaintiffs' editorializations in their opening papers – with which defendants naturally disagree and which are, in any event, beside the point of their motion – defendants are in fact agreeable, or at least decline (for the reasons below) to take an opposing position, with respect to plaintiffs' requests.

In sum and substance, the *Sierra* and *Wood* plaintiffs make four requests: (1) to consolidate their cases; (2) to dismiss defendants without personal involvement; (3) to jettison their request for declaratory relief and *only* seek money-damages; and (4) to add new defendants².

¹ By email dated July 7, 2022, defendants requested, "...[C]ould you please share with us why plaintiffs are seeking to amend their complaint...?", to which plaintiffs' counsel responded via email dated July 8, 2022, "The basis for our motion to amend will be outlined in our memorandum of law."

² Regarding the new defendants, plaintiffs represented in their papers that, (a) they are not seeking to assert state law claims against the proposed new defendants (Dkt. 687 at 20), (b) they are not seeking to add new legal claims (Dkt. 687 at 16), and (c) they will require no additional discovery beyond what is already contemplated by the parties (Dkt. 687 at 1).

First, defendants consent to plaintiffs' first three requests, namely, to consolidate *Sierra* and *Wood*, to dismiss the defendants listed in plaintiffs' motion papers, and to drop plaintiffs' requests for relief other than for a monetary remedy. And to be sure, such consent is specific to plaintiffs' request to amend their pleadings and consolidate their two actions – defendants reserve their rights to oppose plaintiffs' anticipated efforts to certify a putative class, which defendants regard as a separate issue from the ones currently before the Court.

Second, defendants take no position on plaintiffs' request to add new defendants. Plaintiffs let their March 5, 2021 deadline to amend elapse long ago without ever asking for an enlargement of that deadline, except for the brief extension that the *Wood* plaintiffs requested with defendants' consent back on February 26, 2021 for them to be able to file amended pleadings by March 10, 2021 (this request, at Wood Dkt. 41, appears to have gone unanswered, but is in any event well over a year old). Plaintiffs' motion, moreover, appears to offer no reason for why plaintiffs failed to request an extension of the deadline to amend. Consequently, defendants decline to take a position on this portion of plaintiffs' request.

Thank you for your consideration herein.

Respectfully submitted,

Daniel Braun /s/

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cc: ALL COUNSEL (via ECF only)